

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-38790-2022

Date of decision: 29.10.2022

Sunil

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Tarundeep Kumar, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

Mr. Neeraj Kumar, Advocate
for the complainant.

NAMIT KUMAR, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in a case bearing FIR No.0398 dated 19.07.2022 under Sections 385/388/420/120-B of IPC registered at Police Station Sadar Jind, District Jind.

The FIR in the present case was registered on the basis of application dated 06.06.2022 received in the Police Station on 19.07.2022, which was written by Devender S/o Ram Singh, resident of Village Silani Tehsil and District Jhajjar, for taking action against 1) Lovely wife of Sunil 2) Sunil S/o Subhash (petitioner in the present case) 3) Subhash S/o Bhal Singh 4) Pale S/o Bhim Singh and 5) Vinod S/o Pale, resident of Sangatpura, District Jind.

The complainant alleged in the application that his brother Satish was working as ASI in Haryana Police at P.S. City Panipat. Lovely wife of Sunil was also working as P/SI at P.S. City Panipat. She lodged an FIR No.548/2011 under Sections 354,376/511 and 506 of IPC and under SC/ST Act at police station Sonapat. The trial is pending in the Court at Sonapat. On 29.09.2021, one unknown person came to Manju Bala wife of Satish at their quarter and told that they want to finish the false matter pending against Satish. He told them to have a talk with Sunil, the husband of Lovely. Thereafter, the wife of brother of complainant namely Krishan contacted with the wife of Sunil on mobile phone. Thereafter, on the asking of Sunil they met Sunil and Lovely. Sunil and Lovely demanded Rs.50 lacs to finish this false matter. They also got an affidavit from the complainant that he would not file any case against Sunil and Lovely. The complainant and his family members collected some money and on 22.03.2022, they reached at village Sangatpura alongwith nephew (Bhanja) of complainant namely Ajay Kumar. Accused Pale, Vinod, Sunil and Subhash the father of Sunil were present there. There Sunil, Subhash, Pale and Vinod told that they would finish the matter in Rs.50 lacs. The conversation went on for a long time and at last the deal was finalized for Rs.32,50,000/-. They assured that after that they would get back their case and Sunil talked with his wife Lovely also on the phone. It was agreed that Lovely would file her affidavit in the Hon'ble High Court at Chandigarh. On 23.03.2022, they reached at village Sangatpura where all the accused were present and they delivered Rs.30 lacs to them. The remaining amount of Rs.2,50,000/- was paid after two days. The entire conversation was recorded by the nephew (Bhanja) of complainant named Ajay Kumar in his phone.

Thereafter, Lovely and Sunil put pressure on Satish that affidavit of his wife should also be handed over to them, therefore, on 02.04.2022, the wife of Satish also gave an affidavit. Lovely, Sunil, Subhash and Pale have taken money from complainant under pressure and Vikas, Naresh, Jaglan and Billu are witnesses of said transactions.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case for pressurizing him and his wife not to make any statement in the Court against the brother of the complainant, who is accused in FIR No.548/2011 registered at Police Station Sonapat, wherein charges have been framed under Sections 354, 376 (2)(a)(i), 511 IPC and SC & ST Act, against the brother of the complainant. He further submits that no offence is made out as per prosecution version as there can be no cheating for doing an illegal act. He further submits that the petitioner also made a complaint in Police Station Sadar Jind on 28.01.2022, against the complainant, namely, Ajay and Billu Mor for pressurizing the petitioner to compromise the matter and for giving threats to kill and also to remove the wife of the present petitioner from job. He further submits that the petitioner is not involved in any other case.

Learned State counsel has filed the status report by way of an affidavit of Mr. Ravi Khundia, Deputy Superintendent of Police, Jind-Detective on behalf of respondent-State of Haryana.

Relevant portion from the status report is as under:-

“3. That investigation of this case was taken up by ASI Surender Kumar of Police Station Sadar Jind. During the course of investigation the case on 29.07.2022 facts and investigation of the case were verified by Station House

Officer, Police Station Sadar Jind and Deputy Superintendent of Police, Jind- Detective (answering deponent) and on verification of facts and investigation it has been found that the accused had committed offence u/s 388,120-B IPC. On this section 388 and 120-B IPC were invoked in this case.

4. That on the same day i.e. 29.07.2022, Devender son of Ram Singh, resident of Silani, Tehsil and District Jhajjar was joined in the investigation of the case and a CD and Pen drive produced by him were taken in police possession through separate recovery memo. The CD was displayed by the Investigating Officer in his laptop and the complainant-Devender identified that Ram Pal @ Pala son of Bhim, Vinod son of Ram Pal @ Pala. the present petitioner-Sunil son of Subhash and Subhash son of Bhal Singh, all resident of Sangatpura can be seen and heard demanding Rs.50 Lacs from him in lieu of compromise of the case of his brother in which Ram Pal @ Pala along with the present petitioner Sunil can also be heard compromising the matter in Rs.32,50,000/-. Further Vikash resident of Nirjan can also be seen counting currency notes and Sunil and Ram Pal @Pala can be heard talking and Pala is saying that Rs. 30 Lacs has arrived and Billu shall pay the remaining amount of Rs. 2.50 lacs and thus total amount of Rs. 32.50 lacs has been completed. Ajay Kumar son of Naresh Kumar, resident of Giji, Police Station Sample also produced a certificate u/s 65-B of the Indian Evidence Act.

5. That on 05.08.2022, Ram Pal @ Pala son of Bhim and Vinod son of Ram Pal @ Pala Ram, resident of Sangat Pura and Vikash son of Rishi Ram, resident of Nirjan were joined in the investigation of the case and enquiry was made from them. They categorically deposed that the matter was settled in a sum of Rs. 32,50,000/- and on 26.03.2022, the complainant Devender had given Rs. 30 lacs to Ram Pal @ Pala and later on remaining amount of Rs. 2,50,000/- was also

given to him. On 18.04.2022, they all went to Chandigarh and after giving affidavit by Lovelly, Devender directed him to deliver money to Sunil- petitioner. On the same day in the evening the petitioner-accused Sunil came his house and went after taking Rs. 32,50,000/- from him. He further disclosed that on 27.05.2022 when Panchayat was convened in village then the petitioner-accused Sunil flatly declined to return the aforesaid money to complainant. On 08.08.2022, 10.08.2022. 02.09.2022. 06.09.2022, 10.09.2022 and 23.09.2022 the petitioner Sunil and his wife Lovely were given notices for joining the investigation of the case, but they despite of issuance of notices did not join the investigation of the case.

6. That the custody of the petitioner is concerned, it is submitted that the complainant has not contacted with petitioner-accused for compromise rather the petitioner-accused has contacted with the complainant as they have sent some unknown person at their residence. The petitioner-accused has demanded Rs.50 lacs for compromise and conversation was recorded in phone. The matter was settled for Rs.32,50,000/- and the said amount has been paid to the petitioner-accused. It is further submitted that despite that Lovely has deposed against the brother of the complainant and the money is also retained by the petitioner-accused. The said money is to be recovered from the petitioner-accused and for that purpose custodial interrogation of the accused is required.”

The learned State counsel submits that keeping in view the seriousness of charges levelled against the petitioner and the fact that he and other co-accused have received a sum of Rs.32,50,000/- from the complainant, which is to be recovered, the petitioner is not entitled for the grant of pre-arrest bail.

The petitioner had earlier approached the Court of learned Additional Sessions Judge by filing of petition under Section 438 Cr.P.C. for grant of anticipatory bail which has been dismissed by the said Court vide order dated 24.08.2022 by recording the following finding:-

“10. The arguments advanced by both the sides are duly considered apart from perusing the record. At this juncture, the complainant side is pressing that Rs.32,50,000/- have been given to the accused for compromise in one another case registered against the brother of the complainant while accused is denying this fact, rather the accused has levelled allegations that he was pressurized for compromise by the complainant side in the said matter which is pending at Sonapat. However, it is admitted fact that in that matter Lovely has deposed against the accused and there is no compromise in that case. The version of the complainant in this matter is supported by recording of the conversation in the mobile and transcript of the same has been produced in the Court. As per allegations, Rs.32,50,000/- have been given and for the recovery of the same, the custodial interrogation of the accused is stated to be required. Therefore, no ground to grant the pre-arrest bail is made out. The learned counsel for the accused/applicant has relied upon the law laid down by the Hon'ble Punjab & Haryana High Court in Saniya's case (supra) and Shweta Mishra's case (supra). However, perusal of the said cases law reveals that there were allegations of blackmail in those cases and pre-arrest bail was granted, while in the present case, the allegations cases are that the amount has been delivered. In such circumstances, the above said case law is not applicable on the facts and circumstances of the present case. As already stated, the application is liable to be dismissed.”

I have heard learned counsel for the parties and perused the record.

It has come on record that a sum of Rs.32,50,000/- is stated to have been given by the complainant to the accused including the petitioner for compromise in another case registered against the brother of the complainant. The police authorities are required to investigate the matter in right earnest so as to bring out the truth. Amount taken by the petitioner and other accused is still to be recovered and accusation against the petitioner is well founded on the basis of facts of the case and the finding recorded in the order dated 24.08.2022 of the learned ASJ, Jind. The right of the prosecution to investigate the case in a proper manner cannot be curtailed, at this stage.

In wake of the above, this Court is not inclined to grant the concession of pre-arrest bail and the present petition is accordingly, dismissed.

29.10.2022
ps-I

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No